

ADMINISTRATIVE RECORD INDEX

ADDENDUM

SITE NAME: GRANT ROAD DRUMS

SITE NUMBER: TXD G2

INDEX DATE: 10/25/90

**RECEIVED**  
SUPERVISOR

APR 13 1992

HEALTH  
CENTER

9015802



## GRANT ROAD DRUMS

### TXD G2

The Administrative Record Index is arranged with the following structure:

#### I. CHRONOLOGICAL LISTING

This section of the index contains all records of the file arranged chronologically.

#### II. CATEGORIZED LISTING

This section of the index is arranged by subject headings as follows:

- 1.0 SITE IDENTIFICATION
  - 1.1 Background Information
  - 1.2 Notification/Site Inspection Reports
  - 1.3 Preliminary Assessment (PA) Report
  - 1.4 Site Investigation (SI) Report
  - 1.5 Previous Operable Unit Information
- 2.0 REMOVAL RESPONSE
  - 2.1 Sampling and Analysis Plans
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  - 2.3 EE/CA Approval Memorandum
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- 8.0 HEALTH ASSESSMENTS
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\* I. CHRONOLOGICAL LISTING \*  
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ADMINISTRATIVE RECORD INDEX

ADDENDUM

SITE NAME: GRANT ROAD DRUMS  
SITE NUMBER: TXD G2

DOCUMENT NUMBER: 000100 - 000120  
DOCUMENT DATE: 05/09/89  
NUMBER OF PAGES: 21  
AUTHOR: Allyn M. Davis, Director, Hazardous Waste Management Division  
COMPANY/AGENCY: U.S. EPA Region 6  
RECIPIENT: Raymond R. Betz, Raymond R. Betz Interests, Inc.  
DOCUMENT TYPE: Correspondence w/Attached AO on Consent  
DOCUMENT TITLE: Enc: Administrative Order on Consent concerning the removal  
action Mr. Betz previously agreed to perform at the Grant Road  
Drum Site in Houston, TX

DOCUMENT NUMBER: 000121 - 000141  
DOCUMENT DATE: 05/09/89  
NUMBER OF PAGES: 21  
AUTHOR: Allyn M. Davis, Director, Hazardous Waste Management Division  
COMPANY/AGENCY: U.S. EPA Region 6  
RECIPIENT: Tom Hetherington, Power Pak Co., Inc.  
DOCUMENT TYPE: Correspondence w/Attached AO on Consent  
DOCUMENT TITLE: Enc: Administrator Order on Consent concerning the removal  
action Mr. Hetherington previously agreed to perform at the  
Grant Road Drum Site, Houston, TX



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1000

DALLAS, TEXAS 75202

MAY 09 1989

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

URGENT LEGAL MATTER - PROMPT REPLY NECESSARY

Raymond R. Betz  
Raymond R. Betz Interests, Inc.  
610 West Greens Road  
Houston, Texas 77067  
ATTN: Joyce Schnell

Re: Grant Road Drum Site  
Houston, Texas

Dear Mr. Betz:

Enclosed is an Administrative Order on Consent (Order) concerning the removal action you have previously agreed to perform at the above referenced site. The Order should be signed and returned within five (5) working days to the attention of:

H. J. Parr  
Superfund Enforcement Branch (6H-EC)  
U.S. Environmental  
Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202

You are hereby advised that if you fail to execute and return this Order within the specified time frame EPA may issue a civil administrative enforcement action directing you to complete the removal action and which could include penalties for non-performance of the removal and the recovery of costs previously expended by the government..

Should you have any questions regarding this Order, you should contact Renee' V. Holmes, Assistant Regional Counsel, telephone (214) 655-2120.

Sincerely yours,

*Allyn M. Davis*

Allyn M. Davis, Director  
Hazardous Waste Management Division (6H)

Enclosure

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**SUPERFUND**

APR 13 1992

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000100

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF:

RAYMOND R. BETZ INTERESTS, INC.	§	ADMINISTRATIVE ORDER
RESPONDENT	§	ON CONSENT
Grant Road Drum Site	§	DOCKET NUMBER:
Houston, Harris County, Texas	§	CERCLA-6-01-89
Proceeding under Section	§	
106(a) of the Comprehensive	§	
Environmental Response,	§	
Compensation and Liability Act	§	
of 1980, 42 U.S.C. §9606(a)	§	
as Amended by The Superfund	§	
Amendments and Reauthorization	§	
Act of 1986, P.L. 99-499	§	

I. JURISDICTION

This ADMINISTRATIVE ORDER ON CONSENT ("ORDER") is issued by the Regional Administrator of Region 6 of the United States Environmental Protection Agency ("EPA") to Raymond R. Betz Interests, Inc., ("Respondent"), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a), as amended, by authority delegated by the President of the United States to the Administrator of the U.S. EPA on January 29, 1987, by Executive Order 12580, 52 Fed. Reg. 2923, and redelegated to the Regional Administrator, Region 6. This ORDER is issued in accordance with the provisions of Section 104(a) and 122(a) of CERCLA, 42 U.S.C. Section 9604(a) and 9622(a). Notice of the issuance of this ORDER has been given to the State of Texas through the Texas Water Commission (TWC).

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Respondent hereby agrees to undertake all actions required by the terms and conditions of this ORDER. Respondent waives all right to contest the jurisdiction of the United States Environmental Protection Agency ("EPA") to issue this Order or to implement and enforce its terms and conditions.

## II. STATEMENT OF PURPOSE

The purpose of this ORDER is to protect the public health and welfare and the environment from releases or threatened releases of hazardous substances as those are defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), by eliminating the threat of direct contact with those hazardous substances which exist in and around the drums located on the facility known as the Grant Road Drum Site ("herein referred to as "site" or "facility"). The work to be performed under this ORDER will prevent the migration or the release of hazardous substances, pollutants, or contaminants resulting from direct contact with the site. The work performed under this ORDER is a removal action and shall be subject to prior approval by EPA and shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300. The removal action shall be done in accordance with applicable amendments or revisions to CERCLA, the NCP and in accordance with all EPA policy and guidance.

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### III. FINDINGS OF FACT

1. Respondent is a corporation, incorporated December 10, 1980 under the laws of the State of Texas.
2. The facility is located on a wooded tract of land to the east of the Warner Cable hub station, at 9602 Grant Road, Houston, Harris County, Texas. The tract of land is divided into 3 Parcels, Respondent owns Parcels two and three. The legal description of Parcels two and three of the site is as follows:

BEING 3.2908 acres of land (143,350.35 square feet) of land in the A. Harrington Survey, Abstract 380, Harris County, Texas and being out of that certain 38.4 acre tract of land described in deed recorded in Volume 2945, Page 462, Deed Records, Harris County, Texas; said 3.2908 acres being more particularly described as follows:

COMMENCING at a 5/8 inch rod found marking the East line of Perry Road (60 feet wide) and being located 30 feet East of the Northwest corner of said Harrington Survey;

THENCE North 88 degrees 33 minutes 21 seconds, East 719.72 feet to 5/8 inch iron rod set for corner in North line said 38.4 acre tract and marking the Northwest corner and PLACE OF BEGINNING of herein described 3.2908 acre tract;

THENCE continuing North 88 degrees 33 minutes 21 seconds, East 466.74 feet to 1/2 inch rod found for corner in Southwest line of FM Road No. 149 (120 feet wide);

THENCE South 49 degrees 16 minutes 23 seconds, East 357.02 feet along the Southwest line of said FM Road No. 149 to 3/4 inch iron pipe found for corner;

THENCE South 88 degrees 43 minutes 26 seconds, West 736.02 feet to 3/4 inch iron pipe found for corner;

THENCE North 00 degrees 19 minutes 03 seconds, West 237.57 feet to PLACE OF BEGINNING and containing 3.2908 acres of land.

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3. There are drums scattered throughout the site. Most are so badly rusted that the labels are illegible; however, some are clearly marked "Anhydrous Aluminum Chloride". None of the drums appeared to be leaking, but the corrosion is weakening the physical integrity of the drums and threatening to release the contents onto the ground and into the air. Anhydrous aluminum chloride has an explosive nature. Access to the site is currently unrestricted and there are several local human activity centers that could be adversely affected in the event of a catastrophic release.
4. The site is located approximately 200 feet from a strip mall to the northeast, two-tenths of a mile from residences, churches, and a daycare center to the southwest, and four-tenths of a mile to the west of Cypress Creek High School.
5. EPA's Technical Assistance Team (TAT) inspected and collected samples from the site on June 29, 1987. Four of the sixty drums were sampled and soil samples around some of the more badly corroded drums were collected. The contents of the sampled drums were found to contain three different physical phases; liquids, sludges, and solids. Analytical results for each of these phases are presented in the following table.

Hazardous Substance	Matrix	Concentration
o - Xylene	water	1,120 to 13,000 ug/l
	sludge	33,400,000 ug/kg
m - Xylene and/or p - Xylene	water	2,250 to 27,300 ug/l
	sludge	92,000,000 ug/kg

Hazardous Substance	Matrix	Concentration
Ethylbenzene	water	46.4 ug/l
	sludge	22,300,000 ug/kg
Toluene	sludge	1,350,000 ug/kg
Trichloroethene	sludge	6,100,000 ug/kg
Lead	solid	4,616 mg/kg
	sludge	7,591 mg/kg
Chromium	solid	8,678 mg/kg
	sludge	5,033 mg/kg

Xylene, toluene, ethylbenzene, and trichloroethene all cause central nervous system depression, skin defatting, and liver damage, and trichloroethene is a probable carcinogen. Lead and chromium are both reprotoxic. Lead can cause permanent brain damage and chromium has a high pulmonary toxicity and has been implicated as a human carcinogen.

6. Respondent owned or operated that part of the site described in Paragraph 2 above, as Parcels 2 and 3 and owned or operated it during the time the hazardous substances were disposed of on the site.
7. Respondent has committed to engage the services of a contractor, with the sufficient technical expertise to conduct the removal action.

8. Respondent has sufficient assets to conduct the removal action in a timely manner.

#### IV. CONCLUSIONS OF LAW

9. The site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601 (9), because it is a site or area where hazardous substances including lead, chromium, and toluene have been deposited, stored, disposed of, placed or otherwise came to be located.
10. Respondent is an "owner or operator" as that term is defined in Section 101(20)(A) of CERCLA, 42 U.S.C. §9601(20)(A), because Respondent owned that portion of the facility described in paragraph 2 above at the time that hazardous substances were disposed of at the facility.
11. Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. §9601 (21) because it is a corporation.
12. The substances found at the site and identified in paragraph 5 above are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), and are subject to the terms and provisions of that act.
13. The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of hazardous substances constitutes a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22). The threat of occurrence

of any of the above constitutes the threat of a release of a hazardous substance. The deteriorating condition of the drums at the site indicates that spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of the hazardous substances may occur at anytime.

14. Respondent owned that portion of the facility described as Parcel 1 in Paragraph 2 above, at the time that hazardous substances were disposed of at the facility. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a), any person who owned or operated any facility at the time that hazardous substances were disposed of, is a responsible party.
15. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607 (a) a responsible party is liable for all costs of removal or remedial action incurred by the United States Government, for the taking of actions made necessary by a release, or the threat of a release, of hazardous substances into the environment, so long as the actions are not inconsistent with the NCP.

#### V. DETERMINATION

16. Based on the Findings of Fact, Conclusions of Law, and the entire administrative record, the following determinations are made:

A. To the extent practicable, the removal action required in this ORDER contributes to the efficient

performance of any long term remedial action with respect to the release or threatened release concerned, as required by Section 104(a)(2) of CERCLA, 42 U.S.C. Section 9604(a)(2).

B. The information available to EPA at the time of issuance of this ORDER indicates that the removal action required in this ORDER will be done properly and promptly by the responsible parties who have agreed to this ORDER.

C. There may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances from this facility.

D. The action required by this ORDER is necessary to protect public health or welfare or the environment. The action required by this ORDER is consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.

#### VI. ORDER

17. Based on the foregoing Findings of Fact, Conclusions of Law and Determinations, and in order to protect the public health and welfare and the environment and to eliminate the threat of direct contact with those hazardous substances

which exist at the site and to eliminate the threat of direct contact with those hazardous substances which exist at the site, Respondent is hereby ORDERED and consents and agrees to do the following:

A. Develop a Workplan (sometimes referred to as "Plan") to undertake the following:

- (i.) Sample drums and perform sufficient analysis in order to profile the waste for disposal.
- (ii.) All drums must be shipped in overpacks which meet Department of Transportation regulations.
- (iii.) Any stained soils encountered during the removal shall be excavated, replaced with clean soil, and regraded to the natural topographic contours.
- (iv.) Dispose of all material removed from the site in accordance with Paragraph 16 below.
- (iv.) The Plan shall contain lists of materials to be used, and a schedule to implement the Plan.

B. Respondent shall, by certified mail, return receipt requested, postmarked no later than ten (10) calendar days after the effective date of this ORDER, send the Plan to the EPA On-Scene Coordinator ("OSC").

C. Upon approval of the Plan, Respondent shall initiate and implement the removal action in accordance with the approved Workplan and to the satisfaction and direction of the OSC.

D. During the implementation of the workplan, it may become necessary, due to site conditions, for the OSC

to make modifications to the workplan. The Respondent shall comply and perform all such modifications as directed, in writing, by the EPA OSC.

- E. Respondent shall comply with the requirements of the U.S. Occupational Safety and Health Administration regulations set forth in 29 CFR Part 1910 and the U.S. Environmental Protection Agency regulations set forth in 40 CFR Section 300.38 relating to the conduct of work at Superfund sites.
- F. The Respondent shall submit a written biweekly site report which shall be due by the close of business on the following Monday of every other work week. This report shall include, but not be limited to, sampling results, the dates of activity, the work performed, and a discussion of any problems encountered. This report shall be submitted to the EPA addressees listed in Section IX of this ORDER.
- G. Respondent shall submit a written report upon completion of the removal action. This report shall include, but not be limited to, the disposal records, shipping manifests and sampling results and shall be submitted to the EPA parties listed in Section IX of this Order.
- H. All work required pursuant to this ORDER shall be completed seventy-five (75) working days from the effective date of this ORDER.

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- I. Respondent shall notify the EPA OSC at least one day prior to the shipment of the drums in order to have an EPA representative on site at the time the drums are to be shipped.

VII. ACCESS

18. Respondent shall provide access to the property and/or the facility, upon which the work will be performed. This access shall be provided for EPA employees, representatives, contractors and consultants at all times and Respondent shall permit such persons to be present and move freely in the areas in which any work is being conducted pursuant to this ORDER.

VIII. COMPLIANCE WITH OTHER LAWS

19. EPA retains its right and power to take any and all action, including Enforcement Action, to address any noncompliance by Respondent with the terms and conditions of this ORDER, or to address any other event or occurrence covered by this ORDER upon which EPA is empowered to act under any applicable law. All hazardous substances removed from the facility shall be handled in accordance with the Resource Conservation and Recovery Act of 1976, U.S.C. §6921, et seq., the regulations promulgated under that Act, and EPA's Offsite Disposal Policy, Section 121 (d)(3) of CERCLA, 42 U.S.C. §9621(d)(3) as implemented by

OSWER Directive 9834.11 (Nov. 13, 1987).

20. The Respondent shall insure that all actions required by this ORDER are undertaken in compliance with all applicable federal, state and local laws.

IX. NOTICE

21. Whenever notice, or information, or an EPA decision is required, or information is required to be forwarded by one party to another under the terms of this ORDER, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice in writing to all other parties to this ORDER of another designated individual to receive such communications.

EPA: U.S. Environmental Protection Agency  
Emergency Response Branch  
Attn: Mr. David Dodgen (6E-ES)  
On Scene Coordinator  
1445 Ross Avenue  
Dallas, Texas 75202-2733

With One Copy To: Ms. Renee' Holmes, Esq. (6C-S)  
Office of Regional Counsel  
Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202-2733

The Respondent: Raymond R. Betz Interests, Inc.  
610 West Green Road  
Houston, Texas 77067  
Attn: Ms. Joyce Schnell

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X. FACILITY COORDINATOR AND PROJECT OFFICER DESIGNATIONS

22. Within ten (10) days of receipt of this ORDER, Respondent shall appoint a Facility Coordinator, who shall be responsible for oversight and implementation of this ORDER and activities required herein. EPA has appointed a Project Officer, David Dodgen, who will be EPA's designated representative at the facility. The Project Officer shall have the authority of a "Remedial Project Manager" (RPM) and/or "On Scene Coordinator" (OSC) as specified in the National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300. For the purposes of this ORDER the designations "OSC" and "Project Officer" are synonymous.
23. The OSC, in consultation with the Respondent's Facility Coordinator, shall have the authority to make minor modifications, as field conditions dictate, to the workplan in order to fully implement this Administrative Order.
24. The Respondent and EPA each has the right to appoint a new Facility Coordinator or Project Officer, respectively, at any time. Such changes shall be accomplished by notifying the other party, in writing, at least five (5) days prior to the change. The notice shall consist of the name, telephone number, and mailing address of said new Facility Coordinator or Project Officer.
25. Routine communications may be exchanged orally between the parties to facilitate the orderly conduct of work

contemplated by this ORDER, but no such communication shall alter or waive any rights and/or obligations of the parties under this ORDER. The terms of this ORDER may only be altered by mutual written consent of the parties or their successors in office.

#### XI. BINDING EFFECT

26. The provisions of this ORDER shall apply to and be binding upon the Respondent, its employees, agents, contractors, receivers, trustees, successors or assigns.

#### XII. OTHER CLAIMS

27. Nothing herein is intended to release any claims, causes of action or demands in law or equity against any person, firm, partnership, or corporation, for any liability it may have to the United States, the State of Texas or any other person, firm, partnership, corporation or association arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, solid wastes, pollutants, or contaminants found at, taken to, or taken from the site. This ORDER does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).
28. Nothing herein is intended to be an assumption by the EPA or the United States Government of liability for any

injuries or damages to persons or property resulting from acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns or contractors in carrying out activities pursuant to this ORDER, nor shall the EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this ORDER.

### XIII. RESERVATION OF RIGHTS

29. If EPA determines that Respondent is not able to satisfactorily conduct the activities required by this ORDER or the EPA approved proposal, then EPA may conduct such actions as EPA deems necessary to eliminate the threat of direct contact with the hazardous substances in the drums and soils. Respondent may then be ordered to reimburse EPA for the costs of such activity pursuant to Sections 107 and 106(a) of CERCLA.
30. Willful violation of, failure or refusal to comply with this ORDER, or any portion of it, may subject Respondent under §106(b) of CERCLA, 42 U.S.C. §9606(b), to a civil penalty of not more than TWENTY-FIVE THOUSAND DOLLARS (\$25,000) for each day in which such violation occurs or such failure to comply continues.
31. Nothing contained in this ORDER shall be construed as limiting any rights or authority that EPA may now, or hereafter have, under CERCLA, RCRA, or any other law,

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statute or regulation. EPA specifically reserves the right to take appropriate removal, remedial, cost recovery and/or enforcement action pursuant to any law, statute or regulation, including, but not limited to, the right to seek and obtain injunctive relief, for any violation of law or of this ORDER.

#### XIV. REIMBURSEMENT OF OVERSIGHT COSTS

32. A. Every year shortly after the anniversary of the effective date of this Order, EPA shall submit to the Respondent an accounting of all response and oversight costs incurred by the U.S. Government with respect to this Order. Oversight costs shall include all direct and indirect costs of EPA's oversight arrangement for the removal action, including, but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, compliance monitoring, including the collection and analysis of split samples, inspection of removal activities, site visits, interpretation of Order provisions, discussions regarding disputes that may arise as a result of this Order, review and approval or disapproval of reports, the costs of redoing any of Respondent(s) tasks, and any assessed interest.
- B. EPA's certified Agency Financial Management System summary data (SPUR Reports) and any other necessary

documents, shall serve as basis for payment demands. The Respondent(s) shall, within 30 days of receipt of this accounting, remit a check for the amount of those costs, made payable to the Hazardous Substance Superfund. Interest shall begin to accrue on the unpaid balance from that date.

C. Checks should identify the name of the site, the site identification number, the account number, this Order, and be forwarded to:

U.S. Environmental Protection Agency  
Region 6  
Attention: Superfund Accounting  
P.O. Box 360582M  
Pittsburgh, PA 15251

D. Copies of the transmittal letter and check shall be sent simultaneously to the EPA OSC.

#### XV. STIPULATED PENALTIES

33. In the event of violation of this ORDER, the Respondent shall pay into the Hazardous Substances Superfund, the sum set forth below as stipulated penalties. Checks should specifically reference this ORDER and be addressed to:

U.S. Environmental Protection Agency  
Region 6  
Attention: Superfund Accounting  
P.O. Box 360582M  
Pittsburgh, PA 15251

A copy of the transmittal letter should be sent to:

U.S. Environmental Protection Agency  
Region 6 (6H-EC)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

34. Stipulated penalties shall accrue from the date of violation until corrected according to the following schedule:

Stipulated penalties shall accrue from the date of violation until the violation is corrected. During any period of dispute resolution, the stipulated penalties shall continue to accrue but the obligation to pay stipulated penalties shall be stayed until EPA makes its decision. Stipulated penalties shall accrue in the amount of \$25,000 per day or any part thereof for failure to fully comply with a requirement of this ORDER.

35. The stipulated penalties for violations of this ORDER, as set forth above, shall be in addition to any other remedies or sanctions which may be available to EPA by reason of the Respondent's failure to comply with the requirements of this ORDER.

#### XV. PENALTIES FOR NON COMPLIANCE

36. Failure to comply with this ORDER, or any portion thereof, without sufficient cause, may subject Respondent, under §107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3), to liability for punitive damages in an amount up to three times the costs incurred by the government as a result of the Respondent's failure to take proper action.



XVI. RECORD PRESERVATION

37. Respondent shall preserve, during the pendency of this ORDER and for a minimum of six (6) years after the termination of this ORDER, all records and documents in its possession or in the possession of its divisions, employees, agents, or contractors, successors or assigns, prepared pursuant to or under the requirements of, or which in any way relate to, this ORDER, regardless of any document retention policy to the contrary.
38. Respondent shall notify EPA thirty (30) calendar days prior to the destruction of any documents required to be kept pursuant to this section. Upon request by EPA, Respondent shall make available, to EPA, the actual records or copies of the actual records required to be maintained pursuant to this paragraph.

XVII. TERMINATION

39. Except for the record preservation requirements under Section XVI, the ORDER shall terminate when all actions required to be taken by this ORDER have been completed, and Respondent has been notified by the EPA in writing that this ORDER has been satisfactorily complied with and terminated.

Dated, entered, and effective as of this \_\_\_\_ day of  
\_\_\_\_\_, 1989, with the agreement and consent of all  
parties.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Robert E. Layton Jr., P.E.  
Regional Administrator  
United States Environmental Protection Agency

AGREED TO:

RAYMOND R. BETZ INTERESTS, INC.

By: \_\_\_\_\_

Date \_\_\_\_\_

000120



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE SUITE 1200

DALLAS TEXAS 75202

MAY 09 1989

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

URGENT LEGAL MATTER - PROMPT REPLY NECESSARY

Tom Hetherington  
Power Pak Co., Inc.  
1831 FM 1960 West  
Houston, Texas 77090  
ATTN: Camille Elliott

Re: Grant Road Drum Site  
Houston, Texas

Dear Mr. Hetherington:

Enclosed is an Administrative Order on Consent (Order) concerning the removal action you have previously agreed to perform at the above referenced site. The Order should be signed and returned within five (5) working days to the attention of:

H. J. Parr  
Superfund Enforcement Branch (6H-EC)  
U.S. Environmental  
Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202

You are hereby advised that if you fail to execute and return this Order within the specified time frame EPA may issue a civil administrative enforcement action directing you to complete the removal action and which could include penalties for non-performance of the removal and the recovery of costs previously expended by the government.

Should you have any questions regarding this Order, you should contact Renee' V. Holmes, Assistant Regional Counsel, telephone (214) 655-2120.

Sincerely yours,

*Allyn M. Davis*

Allyn M. Davis, Director  
Hazardous Waste Management Division (6H)

Enclosure

000121

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF:

POWER PAK CO., INC.

RESPONDENT

Grant Road Drum Site  
Houston, Harris County, Texas

Proceeding under Section  
106(a) of the Comprehensive  
Environmental Response,  
Compensation and Liability Act  
of 1980, 42 U.S.C. §9606(a)  
as Amended by The Superfund  
Amendments and Reauthorization  
Act of 1986, P.L. 99-499

§ ADMINISTRATIVE ORDER  
§  
§ ON CONSENT  
§  
§ DOCKET NUMBER  
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I. JURISDICTION

This ADMINISTRATIVE ORDER ON CONSENT ("ORDER") is issued by the Regional Administrator of Region 6 of the United States Environmental Protection Agency ("EPA") to Power Pak Company Inc., ("Respondent"), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a), as amended, by authority delegated by the President of the United States to the Administrator of the U.S. EPA on January 29, 1987, by Executive Order 12580, 52 Fed. Reg. 2923, and redelegated to the Regional Administrator, Region 6. This ORDER is issued in accordance with the provisions of Section 104(a) and 122(a) of CERCLA, 42 U.S.C. Section 9604(a) and 9622(a). Notice of the issuance of this ORDER has been given to the State of Texas through the Texas Water Commission (TWC).

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Respondent hereby agrees to undertake all actions required by the terms and conditions of this ORDER. Respondent waives all right to contest the jurisdiction of the United States ~~Environmental~~ Protection Agency ("EPA") to issue this Order or to implement and enforce its terms and conditions.

## II. STATEMENT OF PURPOSE

The purpose of this ORDER is to protect the public health and welfare and the environment from releases or threatened releases of hazardous substances as those are defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), by eliminating the threat of direct contact with those hazardous substances which exist in and around the drums located on the facility known as the Grant Road Drum Site ("herein referred to as "site" or "facility"). The work to be performed under this ORDER will prevent the migration or the release of hazardous substances, pollutants, or contaminants resulting from direct contact with the site. The work performed under this ORDER is a removal action and shall be subject to prior approval by EPA and shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300. The removal action shall be done in accordance with applicable amendments or revisions to CERCLA, the NCP and in accordance with all EPA policy and guidance.

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III. FINDINGS OF FACT

1. Respondent is a corporation, incorporated July 14, 1961, under the laws of the State of Texas.
2. The facility is located on a wooded tract of land to the east of the Warner Cable hub station, at 9602 Grant Road, Houston, Harris County, Texas. The tract of land is divided into 3 Parcels, Respondent owns Parcel one. The legal description of Parcel one of the site is as follows:

BEGINNING at the Northeast corner of said A. Harrington Survey, said point being 30.00 feet west of the east line of Perry Road, being on a 60.00 foot right of way;

THENCE North 88 degrees 50 minutes 46 seconds, East 1212.48 feet with the north line of the said A. Harrington Survey to a 1 inch iron pipe found in the most southerly line of Highway 149, based on a 185.00 foot right of way;

THENCE South 49 degrees 04 minutes, East 355.52 feet with the most southerly line of said Highway 149 to a 1 inch iron pipe found for corner, said point being the place of beginning for the herein described tract;

THENCE continuing with the most southerly line of said Highway 149, South 49 degrees 04 minutes, East 166.90 feet to a 5/8 inch iron rod set for corner, said point being the Southeast corner of the herein described tract;

THENCE South 88 degrees 58 minutes, West 862.00 feet along a wire fence line to a 5/8 inch iron rod and a 1/8 inch by 1 inch galvanized angle iron found for corner, said point being the Southwest corner of the herein described tract;

THENCE North 111.62 feet to a 1 inch galvanized iron pipe found for corner, said point being the Northwest corner of the herein described tract;

THENCE North 88 degrees 58 minutes, East 735.90 feet, part way with a wire fence line, to the PLACE OF BEGINNING

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3. There are drums scattered throughout the site. Most are so badly rusted that the labels are illegible; however, some are clearly marked "Anhydrous Aluminum Chloride".  
None of the drums appeared to be leaking, but the corrosion is weakening the physical integrity of the drums and threatening to release the contents onto the ground and into the air. Anhydrous aluminum chloride has an explosive nature. Access to the site is currently unrestricted and there are several local human activity centers that could be adversely affected in the event of a catastrophic release.
4. The site is located approximately 200 feet from a strip mall to the northeast, two-tenths of a mile from residences, churches, and a daycare center to the southwest, and four-tenths of a mile to the west of Cypress Creek High School.
5. EPA's Technical Assistance Team (TAT) inspected and collected samples from the site on June 29, 1987. Four of the sixty drums were sampled and soil samples around some of the more badly corroded drums were collected. The contents of the sampled drums were found to contain three different physical phases; liquids, sludges, and solids. Analytical results for each of these phases are presented in the following table.

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Hazardous Substance	Matrix	Concentration
o - Xylene	water	1,120 to 13,000 ug/l
	sludge	33,400,000 ug/kg
m - Xylene and/or p - Xylene	water	2,250 to 27,300 ug/l
	sludge	92,000,000 ug/kg

Hazardous Substance	Matrix	Concentration
Ethylbenzene	water	46.4 ug/l
	sludge	22,300,000 ug/kg
Toluene	sludge	1,350,000 ug/kg
Trichloroethene	sludge	6,100,000 ug/kg
Lead	solid	4,616 mg/kg
	sludge	7,591 mg/kg
Chromium	solid	8,678 mg/kg
	sludge	5,033 mg/kg

Xylene, toluene, ethylbenzene, and trichloroethene all cause central nervous system depression, skin defatting, and liver damage, and trichloroethene is a probable carcinogen. Lead and chromium are both reprotoxic. Lead can cause permanent brain damage and chromium has a high pulmonary toxicity and has been implicated as a human carcinogen.

6. Respondent owned or operated that part of the site described in Paragraph 2 above, as Parcel 1 and owned or operated it during the time the hazardous substances were disposed of on the site.
7. Respondent has committed to engage the services of a contractor, with the sufficient technical expertise to conduct the removal action.

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8. Respondent has sufficient assets to conduct the removal action in a timely manner.

#### IV. CONCLUSIONS OF LAW

9. The site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601 (9), because it is a site or area where hazardous substances including lead, chromium, and toluene have been deposited, stored, disposed of, placed or otherwise came to be located.
10. Respondent is an "owner or operator" as that term is defined in Section 101(20)(A) of CERCLA, 42 U.S.C. §9601(20)(A), because Respondent owned that portion of the facility described in paragraph 2 above at the time that hazardous substances were disposed of at the facility.
11. Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. §9601 (21) because it is a corporation.
12. The substances found at the site and identified in paragraph 5 above are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), and are subject to the terms and provisions of that act.
13. The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of hazardous substances constitutes a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22). The threat of occurrence

of any of the above constitutes the threat of a release of a hazardous substance. The deteriorating condition of the drums at the site indicates that spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of the hazardous substances may occur at anytime.

14. Respondent owned that portion of the facility described as Parcel 1 in Paragraph 2 above, at the time that hazardous substances were disposed of at the facility. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a), any person who owned or operated any facility at the time that hazardous substances were disposed of, is a responsible party.
15. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607 (a) a responsible party is liable for all costs of removal or remedial action incurred by the United States Government, for the taking of actions made necessary by a release, or the threat of a release, of hazardous substances into the environment, so long as the actions are not inconsistent with the NCP.

#### V. DETERMINATION

16. Based on the Findings of Fact, Conclusions of Law, and the entire administrative record, the following determinations are made:

A. To the extent practicable, the removal action required in this ORDER contributes to the efficient

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performance of any long term remedial action with respect to the release or threatened release concerned, as required by Section 104(a)(2) of CERCLA, 42 U.S.C. Section 9604(a)(2).

B. The information available to EPA at the time of issuance of this ORDER indicates that the removal action required in this ORDER will be done properly and promptly by the responsible parties who have agreed to this ORDER.

C. There may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances from this facility.

D. The action required by this ORDER is necessary to protect public health or welfare or the environment. The action required by this ORDER is consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.

#### VI. ORDER

17. Based on the foregoing Findings of Fact, Conclusions of Law and Determinations, and in order to protect the public health and welfare and the environment and to eliminate the threat of direct contact with those hazardous substances

which exist at the site and to eliminate the threat of direct contact with those hazardous substances which exist at the site, Respondent is hereby ORDERED and consents and agrees to do the following:

- A. Develop a Workplan (sometimes referred to as "Plan") to undertake the following:
- (i.) Sample drums and perform sufficient analysis in order to profile the waste for disposal.
  - (ii.) All drums must be shipped in overpacks which meet Department of Transportation regulations.
  - (iii.) Any stained soils encountered during the removal shall be excavated, replaced with clean soil, and regraded to the natural topographic contours.
  - (iv.) Dispose of all material removed from the site in accordance with Paragraph 16 below.
  - (iv.) The Plan shall contain lists of materials to be used, and a schedule to implement the Plan.
- B. Respondent shall, by certified mail, return receipt requested, postmarked no later than ten (10) calendar days after the effective date of this ORDER, send the Plan to the EPA On-Scene Coordinator ("OSC").
- C. Upon approval of the Plan, Respondent shall initiate and implement the removal action in accordance with the approved Workplan and to the satisfaction and direction of the OSC.
- D. During the implementation of the workplan, it may become necessary, due to site conditions, for the OSC

to make modifications to the workplan. The Respondent shall comply and perform all such modifications as directed, in writing, by the EPA OSC.

- E. Respondent shall comply with the requirements of the U.S. Occupational Safety and Health Administration regulations set forth in 29 CFR Part 1910 and the U.S. Environmental Protection Agency regulations set forth in 40 CFR Section 300.38 relating to the conduct of work at Superfund sites.
- F. The Respondent shall submit a written biweekly site report which shall be due by the close of business on the following Monday of every other work week. This report shall include, but not be limited to, sampling results, the dates of activity, the work performed, and a discussion of any problems encountered. This report shall be submitted to the EPA addressees listed in Section IX of this ORDER.
- G. Respondent shall submit a written report upon completion of the removal action. This report shall include, but not be limited to, the disposal records, shipping manifests and sampling results and shall be submitted to the EPA parties listed in Section IX of this Order.
- H. All work required pursuant to this ORDER shall be completed seventy-five (75) working days from the effective date of this ORDER.

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- I. Respondent shall notify the EPA OSC at least one day prior to the shipment of the drums in order to have an EPA representative on site at the time the drums are to be shipped.

#### VII. ACCESS

18. Respondent shall provide access to the property and/or the facility, upon which the work will be performed. This access shall be provided for EPA employees, representatives, contractors and consultants at all times and Respondent shall permit such persons to be present and move freely in the areas in which any work is being conducted pursuant to this ORDER.

#### VIII. COMPLIANCE WITH OTHER LAWS

19. EPA retains its right and power to take any and all action, including Enforcement Action, to address any noncompliance by Respondent with the terms and conditions of this ORDER, or to address any other event or occurrence covered by this ORDER upon which EPA is empowered to act under any applicable law. All hazardous substances removed from the facility shall be handled in accordance with the Resource Conservation and Recovery Act of 1976, U.S.C. §6921, et seq., the regulations promulgated under that Act, and EPA's Offsite Disposal Policy, Section 121 (d)(3) of CERCLA, 42 U.S.C. §9621(d)(3) as implemented by

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OSWER Directive 9834.11 (Nov. 13, 1987).

20. The Respondent shall insure that all actions required by this ORDER are undertaken in compliance with all applicable federal, state and local laws.

IX. NOTICE

21. Whenever notice, or information, or an EPA decision is required, or information is required to be forwarded by one party to another under the terms of this ORDER, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice in writing to all other parties to this ORDER of another designated individual to receive such communications.

EPA: U.S. Environmental Protection Agency  
Emergency Response Branch  
Attn: Mr. David Dodgen (6E-ES)  
On Scene Coordinator  
1445 Ross Avenue  
Dallas, Texas 75202-2733

With One Copy To: Ms. Renee' Holmes, Esq. (6C-S)  
Office of Regional Counsel  
Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202-2733

The Respondent: Power Pak Co., Inc.  
1831 F.M. 1960 West  
Houston, Texas 77090

X. FACILITY COORDINATOR AND PROJECT OFFICER DESIGNATIONS

22. Within ten (10) days of receipt of this ORDER, Respondent shall appoint a Facility Coordinator, who shall be responsible for oversight and implementation of this ORDER and activities required herein. EPA has appointed a Project Officer, David Dodgen, who will be EPA's designated representative at the facility. The Project Officer shall have the authority of a "Remedial Project Manager" (RPM) and/or "On Scene Coordinator" (OSC) as specified in the National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300. For the purposes of this ORDER the designations "OSC" and "Project Officer" are synonymous.
23. The OSC, in consultation with the Respondent's Facility Coordinator, shall have the authority to make minor modifications, as field conditions dictate, to the workplan in order to fully implement this Administrative Order.
24. The Respondent and EPA each has the right to appoint a new Facility Coordinator or Project Officer, respectively, at any time. Such changes shall be accomplished by notifying the other party, in writing, at least five (5) days prior to the change. The notice shall consist of the name, telephone number, and mailing address of said new Facility Coordinator or Project Officer.
25. Routine communications may be exchanged orally between the parties to facilitate the orderly conduct of work



contemplated by this ORDER, but no such communication shall alter or waive any rights and/or obligations of the parties under this ORDER. The terms of this ORDER may only be altered by mutual written consent of the parties or their successors in office.

#### XI. BINDING EFFECT

26. The provisions of this ORDER shall apply to and be binding upon the Respondent, its employees, agents, contractors, receivers, trustees, successors or assigns.

#### XII. OTHER CLAIMS

27. Nothing herein is intended to release any claims, causes of action or demands in law or equity against any person, firm, partnership, or corporation, for any liability it may have to the United States, the State of Texas or any other person, firm, partnership, corporation or association arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, solid wastes, pollutants, or contaminants found at, taken to, or taken from the site. This ORDER does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).
28. Nothing herein is intended to be an assumption by the EPA or the United States Government of liability for any

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injuries or damages to persons or property resulting from acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns or contractors in carrying out activities pursuant to this ORDER, nor shall the EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this ORDER.

### XIII. RESERVATION OF RIGHTS

29. If EPA determines that Respondent is not able to satisfactorily conduct the activities required by this ORDER or the EPA approved proposal, then EPA may conduct such actions as EPA deems necessary to eliminate the threat of direct contact with the hazardous substances in the drums and soils. Respondent may then be ordered to reimburse EPA for the costs of such activity pursuant to Sections 107 and 106(a) of CERCLA.
30. Willful violation of, failure or refusal to comply with this ORDER, or any portion of it, may subject Respondent under §106(b) of CERCLA, 42 U.S.C. §9606(b), to a civil penalty of not more than TWENTY-FIVE THOUSAND DOLLARS (\$25,000) for each day in which such violation occurs or such failure to comply continues.
31. Nothing contained in this ORDER shall be construed as limiting any rights or authority that EPA may now, or hereafter have, under CERCLA, RCRA, or any other law,

statute or regulation. EPA specifically reserves the right to take appropriate removal, remedial, cost recovery and/or enforcement action pursuant to any law, statute or regulation, including, but not limited to, the right to seek and obtain injunctive relief, for any violation of law or of this ORDER.

#### XIV. REIMBURSEMENT OF OVERSIGHT COSTS

32. A. Every year shortly after the anniversary of the effective date of this Order, EPA shall submit to the Respondent an accounting of all response and oversight costs incurred by the U.S. Government with respect to this Order. Oversight costs shall include all direct and indirect costs of EPA's oversight arrangement for the removal action, including, but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, compliance monitoring, including the collection and analysis of split samples, inspection of removal activities, site visits, interpretation of Order provisions, discussions regarding disputes that may arise as a result of this order, review and approval or disapproval of reports, the costs of redoing any of Respondent(s) tasks, and any assessed interest.
- B. EPA's certified Agency Financial Management System summary data (SPUR Reports) and any other necessary

documents, shall serve as basis for payment demands. The Respondent(s) shall, within 30 days of receipt of this accounting, remit a check for the amount of those costs, made payable to the Hazardous Substance Superfund. Interest shall begin to accrue on the unpaid balance from that date.

C. Checks should identify the name of the site, the site identification number, the account number, this Order, and be forwarded to:

U.S. Environmental Protection Agency  
Region 6  
Attention: Superfund Accounting  
P.O. Box 360582M  
Pittsburgh, PA 15251

D. Copies of the transmittal letter and check shall be sent simultaneously to the EPA OSC.

#### XV. STIPULATED PENALTIES

33. In the event of violation of this ORDER, the Respondent shall pay into the Hazardous Substances Superfund, the sum set forth below as stipulated penalties. Checks should specifically reference this ORDER and be addressed to:

U.S. Environmental Protection Agency  
Region 6  
Attention: Superfund Accounting  
P.O. Box 360582M  
Pittsburgh, PA 15251

A copy of the transmittal letter should be sent to:

U.S. Environmental Protection Agency  
Region 6 (6H-EC)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

34. Stipulated penalties shall accrue from the date of violation until corrected according to the following schedule:

Stipulated penalties shall accrue from the date of violation until the violation is corrected. During any period of dispute resolution, the stipulated penalties shall continue to accrue but the obligation to pay stipulated penalties shall be stayed until EPA makes its decision. Stipulated penalties shall accrue in the amount of \$25,000 per day or any part thereof for failure to fully comply with a requirement of this ORDER.

35. The stipulated penalties for violations of this ORDER, as set forth above, shall be in addition to any other remedies or sanctions which may be available to EPA by reason of the Respondent's failure to comply with the requirements of this ORDER.

#### XV. PENALTIES FOR NON COMPLIANCE

36. Failure to comply with this ORDER, or any portion thereof, without sufficient cause, may subject Respondent, under §107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3), to liability for punitive damages in an amount up to three times the costs incurred by the government as a result of the Respondent's failure to take proper action.

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#### XVI. RECORD PRESERVATION

37. Respondent shall preserve, during the pendency of this ORDER and for a minimum of six (6) years after the termination of this ORDER, all records and documents in its possession or in the possession of its divisions, employees, agents, or contractors, successors or assigns, prepared pursuant to or under the requirements of, or which in any way relate to, this ORDER, regardless of any document retention policy to the contrary.
38. Respondent shall notify EPA thirty (30) calendar days prior to the destruction of any documents required to be kept pursuant to this section. Upon request by EPA, Respondent shall make available, to EPA, the actual records or copies of the actual records required to be maintained pursuant to this paragraph.

#### XVII. TERMINATION

39. Except for the record preservation requirements under Section XVI, the ORDER shall terminate when all actions required to be taken by this ORDER have been completed, and Respondent has been notified by the EPA in writing that this ORDER has been satisfactorily complied with and terminated.

Dated, entered, and effective as of this \_\_\_\_ day of  
\_\_\_\_\_, 1989, with the agreement and consent of all  
parties.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Robert E. Layton Jr., P.E.  
Regional Administrator  
United States Environmental Protection Agency

AGREED TO:

POWER PAK CO., INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Date

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